

LOCAL MARKETING AGREEMENT

This local Marketing Agreement (the "Agreement") is made as of 20 April, 2000, effective for all purposes on the Effective Date (as defined below), between ("Programmer") WNRN and ("Licensee") WNRS-FM Sweet Briar College.

Recitals

- A. Licensee holds the licenses to operate non-commercial educational Radio Broadcast Station WNRS-FM (the "Station") pursuant to an authorization issued by the Federal Communications Committee (the "FCC").
- B. Programmer desires to purchase from Licensee and Licensee desires to provide Programmer certain airtime on the Station, all in accordance with the Communications Act of 1934, as amended, and the rules, regulations, and policies of the FCC (the "FCC Requirements").

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual covenants, representations, warranties and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement agree as follows:

1. Effective Date and Term

- 1.1 **Effective Date**. This Agreement shall become effective for all purposes on 20 April, 2000
- 1.2 **Term**. The term of this Agreement ("The Term") shall begin on the Effective Date and shall continue until 1 January 2010, unless earlier terminated in accordance with the provisions set forth in this Agreement. Programmer shall have the option to continue this Agreement for another term of equal length at the end of this term.

2. **Purchase of Airtime.** Programmer hereby purchases from Licensee all airtime on the station during the Term, other than airtime specified in Attachment 1 (such airtime period is referred to herein as the "Broadcasting Period"). During the Broadcasting Period, Licensee shall broadcast on the Station programming supplied by Programmer (collectively, the "Program" or "Programs"). Programmer will ensure that the Programs meet technical and quality standards equal to those of programming broadcast by non-commercial radio stations generally in the United States. If Licensee in the reasonable exercise of its discretion finds that any Program(s) does not meet these standards, then it shall advise Programmer in writing of the specific technical deficiencies. If such technical deficiencies have not been corrected within ten (10) days after receipt of notice, then Licensee shall have no obligation to broadcast Program(s) until such time as the technical deficiencies are corrected.

3. **Licensee's Broadcasting Obligations.** In consideration for the payments made and to be made by Programmer hereunder, and subject to the restrictions contained herein, Licensee shall make available to Programmer, beginning on the Effective Date, all of the Station's airtime as specified in Attachment A and shall cause to be broadcast on the Station the Programs pursuant to Section 2 hereof. Throughout the Term, unless otherwise mutually agreed by the Parties, Licensee shall maintain the operating power of the Station at their maximum licensed levels and shall operate and maintain in good working condition the Station's transmission facilities and broadcasting equipment. Throughout the Term, Licensee shall also, with respect to the Station:

- (a) employ a Supervisor who will report to Licensee and direct the performance of Licensee's obligations hereunder and who shall have no employment, consulting, or other material relationship to Programmer;
- (b) retain ultimate control over the personnel, finances, programming and operation of the Station;

- (c) maintain a main studio consistent with the FCC Requirements at which the Supervisor and the other employees or volunteers of the Station will be available during normal business hours;
 - (d) comply with all other FCC Requirements which may be applicable to the operation of the Station.
- 4. **Consideration.** In consideration of the airtime made available to Programmer pursuant to this Agreement, Programmer shall pay Licensee a share of fundraising receipts per semi-annual period as specified in Attachment B.
- 5. **Operation, Ownership and Control of the Station**
 - 5.1 **Control Vested in Licensee** Notwithstanding anything to the contrary in this Agreement, as long as Licensee remains the FCC licensee of the Station, Licensee will have full authority, power and control over the operation of the Station and over all persons employed by it. Licensee will bear the responsibility of the Station's compliance with, and shall cause the Station to comply with, all applicable laws, including the FCC Requirements. Nothing contained herein shall prevent or hinder Licensee from: (a) rejecting or refusing Programs that Licensee believes in good faith to be unsuitable or contrary to the public interest; (b) substituting programs which Licensee believes in good faith to be of greater local or national importance or which are designed to address the problems, needs and interests of the local community; (c) preempting any Program in the event of a local, territorial or national emergency; or (d) refusing to broadcast any Program that does not meet the FCC Requirements.
 - 5.2 **Notice of Complaints.** Programmer will immediately serve Licensee with notice and a copy of any letters of complaint that Programmer receives concerning any Program for Licensee's review and for placement in its public inspection

files. Licensee will immediately serve Programmer with notice and a copy of any letters of complaint that it receives concerning any Program

5.3 **Programmer Access to the Station's Studios.**

During the Term, Licensee shall make available to Programmer for no additional consideration the areas in the Station's studio as may be reasonably necessary or appropriate for Programmer to exercise its rights and perform its obligations under this Agreement.

Programmer shall, to the extent economically feasible, use licensee's facilities to exercise its rights and perform its obligations under this Agreement.

5.4 **Mutual Cooperation.** Programmer and Licensee agree to cooperate reasonably with each other as necessary to fulfill their rights and obligations hereunder. Nothing herein will require Licensee to violate the terms of any FCC License or any binding agreement with a third party.

5.5 **Subcarriers.** Programmer shall receive all proceeds from sub-channel rental for any and all sub-carriers generated at Programmer's facility. Licensee shall receive proceeds from sub-carriers generated at Licensee's facility. Licensee and Programmer will divide any sub-carrier leasing proceeds generated by Programmer not already in place on 1 February 2000. Licensee shall not cause interference or interruption to Programmer's 57 kHz (RDS) sub-carrier without express permission of Programmer unless generating 57 kHz (RDS) sub-carrier of its own capable of duplicating Programmer's RDS data during non-reserve time.

6. **Program Rights and Music Licenses.** During the Term, to the extent it can do so without violating the rights of third parties, Licensee shall make available to Programmer for its use, on the dates and at the times

specified by Programmer, all of Licensee's rights to programs under any program right agreements of the Station (together with the music licenses described below, the "Program Rights Agreements"). Licensee shall use its best efforts to secure all consents, if any, from third parties that are necessary to permit Programmer to use the programs under Program Rights Agreements. Licensee shall maintain all necessary performing rights licenses to musical compositions included in any program, subject to reimbursement by Programmer for the cost thereof under Section 4 Appendix A of this Agreement.

7. **Programs to Serve the Public Interest.** Licensee acknowledges that it is familiar with the type of programming Programmer intends to provide and has determined that the broadcast of such programming on the Station would serve the public interest and is otherwise suitable. Programmer shall cooperate with Licensee to ensure that the Programs include material that is responsive to community problems, needs and interests.
8. **Programming Standards.** Programmer will ensure that the Programs conform to the FCC Requirements applicable to non-commercial educational broadcast radio stations.
9. **Expenses, Revenues and Accounts Receivable.**
 - 9.1 **Expenses.** The Station's case expenses arising from or relating to the period before the Effective Date shall be the responsibility of Licensee, and Programmer shall not be obligated to reimburse Licensee for any expenses allocable to such period. During the Term, Programmer will reimburse Licensee for its reasonable and prudent expenses incurred in operation or improvement of the Station, except that Programmer will not reimburse Licensee for salaries and related costs associated with Licensee's employees. Programmer shall be solely responsible for all expenses attributable to the origination and/or of the Programs by Programmer to Licensee whenever incurred.

10. **Call Letters and Frequency.** During the Term, Licensee (I) shall retain all rights (except as provided in the following sentence) to the Station's call letters and trade names, (ii) shall not change the call letters except in cooperation with the Programmer, and (iii) shall not seek FCC consent to a modification of facilities which would specify a frequency change or have a material adverse effect upon the presently authorized coverage of the station. Programmer shall include in the Programs for the Stations announcements in a form reasonably satisfactory to the Licensee in accordance with FCC Requirements to identify such Station, as well as any other announcements required by the FCC.

11. Events of Default and Termination.

- 11.1 **Programmer's Events of Default.** The occurrence and continuation of any of the following will be deemed an Event of Default by Programmer under this agreement:
- (a) Programmer fails to make LMA Payments;
 - (b) Programmer fails to observe any other material covenant, condition or agreement in this Agreement; or
 - (c) Programmer breaches or violates any material representation or warranty made by it under this Agreement.
- 11.2 **Licensee's Events of Default.** The occurrence and continuation of any of the following will be deemed an Event of default by Licensee under this Agreement:
- (a) Licensee fails to observe or perform any material covenant, condition or agreement contained in this Agreement; or
 - (b) Licensee breaches or violates any material representation or warranty made by it under this Agreement.

11.3 **Cure Period.** The defaulting party shall have thirty (30) days from the date on which Programmer has provided Licensee or Licensee has provided Programmer, as the case may be, with written notice specifying the Event(s) of Default to cure any such Event(s) of Default. If the event of Default cannot be cured by the defaulting party within such time period but commercially reasonable efforts are being made to effect a cure or otherwise secure or protect the interests of the non-defaulting party (in which case, if successful, the Event of Default shall be deemed cured), then the defaulting party shall have an additional period not to exceed thirty (30) days to effect a cure or a deemed cure; provided, however, that such additional thirty-day period shall not be available in the case of a default under Section 11.1 (a) above.

11.4 **Termination for Uncured Event of Default.** If an event of Default by Programmer has not been cured or deemed cured within the period set forth in Section 11.3 above, then Licensee may terminate this Agreement, effective immediately upon written notice to Programmer, and pursue all remedies available at law or in equity for breach of this Agreement. If an event of Default by Licensee has not been cured or deemed cured within the periods set forth in Section 11.3 above, then programmer may terminate this Agreement effective immediately upon written notice to Licensee, and pursue all remedies available at law or in equity for breach of this Agreement.

11.5 **Termination by Licensee to Satisfy the FCC Requirements.** If Licensee is required by the FCC to terminate this Agreement by an FCC order which has become a Final Order (as that term is defined in the Purchase Agreement), Licensee shall or, if the FCC orders that this Agreement be terminated before its order becomes a Final Order and this Agreement cannot be revised to comply with Applicable FCC Requirements as contemplated by Section 20 hereof, Licensee may, upon at least sixty (60)

days' written notice to Programmer (or such shorter period as may be required by the FCC) terminate this Agreement without any liability to Programmer.

12. **Certain Representations, Warranties and Covenants.**

- 12.1 **Mutual Representations Concerning this Agreement.** Licensee represents and warrants as follows: (a) Licensee is a corporation duly organized, validly existing and in good standing under the laws of Virginia; (b) Licensee has the requisite corporate power and authority to enter into and perform this Agreement; and (c) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate actions of Licensee; and (d) the execution, delivery, and performance of this Agreement by Licensee does not conflict with any other agreement to which Licensee is a party, the violation of which would have a material adverse effect on the business of the Station taken as a whole.

Programmer represents and warrants as follows: (a) Programmer is a corporation duly organized, validly existing and in good standing under the laws of Virginia; (b) Programmer has the requisite corporate power and authority to enter into and perform this Agreement; and (c) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate actions of programmer; and (d) the execution, delivery and performance of this Agreement by Programmer does not conflict with any other agreement to which Programmer is a party and does not violate any statute, law or regulation or any applicable court order or decree.

- 12.2 **Compliance with FCC Requirements.** Programmer represents, warrants and covenants that its execution and performance of this

Agreement is, and will remain, in compliance with the FCC Requirements without limitation, 47 C.F.R. § 73.3555

13. **Modification and Waiver: Remedies Cumulative.** No modification or waiver of any provision of this Agreement will be effective unless in writing and signed by all parties. No failure or delay on the part of Programmer or Licensee in exercising any right or power under this Agreement will operate as a waiver of such right or power, nor will any single or partial exercise of any such rights or power or the exercise of any other or power operate as a waiver. Except as otherwise provided in this Agreement, the rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies which a party may otherwise have.
14. **Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns. Notwithstanding the foregoing, no party may assign its rights or obligations under this Agreement without the prior written consent of the other party.
15. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of Virginia without regard to any conflicts-of-law rules that might apply the laws of another jurisdiction or jurisdictions.
16. **Notices.** Notices required to be provided by this Agreement shall be given in the manner provided and to the persons specified in the Purchase Agreement.
17. **Entire Agreement.** This agreement embodies the entire understanding among the parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous written or oral agreement between the parties regarding such subject matter.
18. **Relationship of Parties.** Programmer and Licensee are not, and shall not be deemed to be, agents, partners, or representatives of each other.

19. **Force Majeure.** The failure of a party hereto to comply with its obligations under this Agreement due to acts of god, strikes or threats thereof or force majeure or due to causes beyond such party's control will not constitute an Event of Default under Section 11 of this Agreement and no party will be liable to the others therefore. Programmer and Licensee each agree to exercise its commercially reasonable efforts to remedy any such conditions affecting its own facilities as soon as practicable.
20. **Subject to Laws; Violations; Invalidity.**
- 20.1 **Subject to Laws.** The obligations of the parties under this agreement are subject to the FCC Requirements and all other applicable laws. The parties acknowledge that this Agreement is intended to comply with FCC Requirements. Neither party shall have any liability to the other for any acts resulting from compliance with FCC Requirements.
- 20.2 **Violations.** In the event that the FCC determines that the continued performance of this agreement is in violation of the FCC Requirements, each party will use its economically reasonable efforts to comply with the FCC Requirements or will in good faith contest or seek to reserve any such action or agree on the terms of a revision to this Agreement, in each case, on a time schedule sufficient to meet the FCC Requirements and so long as the fundamental nature of the business arrangement between the parties evidenced by this Agreement is maintained.
- 20.3 **Invalidity:** If any provision of this Agreement is otherwise held to be illegal, invalid, or unenforceable under present or future laws, then such provision shall be fully severable, this Agreement shall be construed and enforced as if such provision had never comprised a part thereof, and the remaining provisions shall remain in full force and effect, in each case so long as the fundamental nature of the business

arrangement between Programmer and Licensee has been maintained.

21. **Reciporcal Indemnity**

21.1 **Idemnification by Programmer.** Programmer shall idemnify, defend, and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, and expenses (including reasonable attorneys' fees and other expenses incidental thereto) of every kind, nature and description, including but not limited to those relating to copyright infringement (except as may result from a breach of Licensee's warranty, in Section 6 hereof, to maintain all necessary performing rights licenses to musical compositions included in any Program), libel, slander, defamation or invasion of privacy, arising out of (a) Programmer's broadcasts of the Programs, (b) any misrepresentation or breach of any warranty of Programmer; or (c) any breach of any covenant, agreement, or obligation of Programmer. If Programmer is required to indemnify Licensee as a result of programs broadcast hereunder which are supplied by a third party pursuant to a contract with Licensee, it is agreed that Programmer shall be subrogated to any rights which Licensee may have against such third party, including the right to indemnification by such third party.

21.2 Idemnification by Licensee. Licensee shall indemnify, defend, and hold harmless Programmer from and against any and all claims, losses, costs, liabilities, damages, and expenses (including reasonable attorneys' fees and other expenses incidental thereto) of every kind, nature and description, including but not limited to those relating to copyright infringement, libel, slander, defamation or invasion of privacy, arising out of: (a) Licensee's broadcast of programs on its own behalf, other than Programs; (b) any misrepresentation or breach of any warranty made in this Agreement

by Licensee; or (c) any breach of any covenant, agreement, or obligation of Licensee contained in this Agreement. If Licensee is required to indemnify Programmer as a result of programs broadcast hereunder which are supplied by a third party pursuant to a contract with Programmer, it is agreed that Licensee shall be subrogated to any rights which Programmer may have against such third party, including the right to indemnification by such third party.

22. **Headings.** The headings of the sections of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction hereof.
23. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signature on each counterpart were upon the same instrument.
24. **Survival.** All representations, warranties, covenants and agreements made by any part in this Agreement or pursuant hereto shall survive execution and delivery of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective duly authorized officers as of the date first written above.

PROGRAMMER WNRN

BY: _____

PRINTED NAME: Mike Friend
TITLE: President and General Manager

LICENSEE: WNRS-FM Sweet Briar College

BY: _____

PRINTED NAME: Valdrie Walker
TITLE: Dean of Co-Curricular Life

ATTACHMENT "A"

1. Programmer shall broadcast the signal of WNRN between the hours of 12 midnight and 6 p.m. Monday through Thursday, and between the hours of 12 midnight and 6 p.m. Sunday during the academic year of Licensee, as published. When Licensee FCC license is upgraded, Programmer shall broadcast the signal between the hours of 12 midnight and 7 p.m., Sunday through Thursday.
2. WNRN shall be broadcast during those times when Licensee is not in session.
3. Licensee shall operate the station during all hours not reserved for WNRN (hereafter called the "Reserved Time").
 - 3a. Licensee's "local programming" will be announced at the WNRN ".56 LEGAL ID" break as beginning after the subsequent music track. Licensee's operators will begin programming at the end of this recording at approximately the top of the hour (hereafter called the "Outcue").
 - 3b. Licensee's local programming will end promptly at the top of the designated hour, at the Outcue.
 - 3c. Licensee's local programming will begin at the WNRN Outcue only. If the Outcue is missed, Licensee operators will inform WNRN operator for a new outcue at the end of the hour, or will allow WNRN programming to continue.
 - 3d. WNRN will supply a synchronized clock to Licensee, or will cooperate in keeping a clock synchronized.

ATTACHMENT “B”

1. Programmer shall share the proceeds of on-air fundraising, conducted semi-annually, with Licensee. Licensee will conduct on-air fundraising during its Reserved Time simultaneously with Programmer. Licensee will receive 25% of gross revenues collected by Programmer from an agreed-upon list of zip codes covered by Licensee's signal.
2. The zip codes from which Licensee will receive revenues are as follows. The list will be adjusted to compensate for improvements to the Licensee signal.

240xx	Roanoke Virginia
241xx	Roanoke Virginia
243xx	Roanoke Virginia
245xx	Lynchburg Virginia

ATTACHMENT “C”

1. If signal interference from Licensee's broadcast equipment arises that impacts the cable television operations of Sweet Briar College, Licensee and Programmer will work expeditiously together with SBC Telecom to determine a solution that will resolve such interference.